

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

EDWIN S. MILLER,

Plaintiff,

V.

KING COUNTY, *et al.*

Defendants.

CASE NO. 2:24-cv-00580-RSL

**ORDER GRANTING IN PART
DEFENDANTS' MOTION TO
DISMISS**

This matter comes before the Court on “Defendants’ Motion to Dismiss Amended Complaint.” Dkt. # 8. Plaintiff alleges that defendants failed to accommodate his religious beliefs in violation of Title VII, 42 U.S.C. § 2000e, and the Washington Law Against Discrimination (“WLAD”), RCW 49.60.030, *et seq.* Defendants argue that the claims, as alleged in the Amended Complaint (Dkt. # 1-2), fail as a matter of law because plaintiff has not adequately alleged a religious belief that conflicts with a job requirement, that he informed his employer of the conflict, or that any of the Doe defendants face potential liability.

The question for the Court on a motion to dismiss is whether the facts alleged in the complaint sufficiently state a “plausible” ground for relief. *Bell Atl. Corp. v. Twombly*, 550

1 U.S. 544, 570 (2007). In the context of a motion under Rule 12(b)(6) of the Federal Rules
2 of Civil Procedure, the Court must “accept factual allegations in the complaint as true and
3 construe the pleadings in the light most favorable to the nonmoving party.” *Manzarek v. St.*
4 *Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008) (citation omitted). The
5 Court’s review is generally limited to the contents of the complaint. *Campanelli v.*
6 *Bockrath*, 100 F.3d 1476, 1479 (9th Cir. 1996). “We are not, however, required to accept
7 as true allegations that contradict exhibits attached to the Complaint or matters properly
8 subject to judicial notice, or allegations that are merely conclusory, unwarranted
9 deductions of fact, or unreasonable inferences.” *Daniels-Hall v. Nat’l Educ. Ass’n*, 629
10 F.3d 992, 998 (9th Cir. 2010).

11 To survive a motion to dismiss under Rule 12(b)(6), a complaint must allege
12 “enough facts to state a claim to relief that is plausible on its face.”

13 []*Twombly*, 550 U.S. [at 570]. A plausible claim includes “factual content
14 that allows the court to draw the reasonable inference that the defendant is
15 liable for the misconduct alleged.” *U.S. v. Corinthian Colls.*, 655 F.3d 984,
16 991 (9th Cir. 2011) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).
17 Under the pleading standards of Rule 8(a)(2), a party must make a “short and
18 plain statement of the claim showing that the pleader is entitled to relief.”
19 Fed. R. Civ. P. 8(a)(2). . . . A complaint “that offers ‘labels and conclusions’
20 or ‘a formulaic recitation of the elements of a cause of action will not do.’”
21 *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 555). Thus,
22 “conclusory allegations of law and unwarranted inferences are insufficient to
23 defeat a motion to dismiss.” *Adams v. Johnson*, 355 F.3d 1179, 1183 (9th
Cir. 2004).

24 *Benavidez v. Cty. of San Diego*, 993 F.3d 1134, 1144–45 (9th Cir. 2021). If the complaint
25 fails to state a cognizable legal theory or fails to provide sufficient facts to support a claim,
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1 dismissal is appropriate. *Shroyer v. New Cingular Wireless Servs., Inc.*, 622 F.3d 1035,
2 1041 (9th Cir. 2010).

3 Having reviewed the Amended Complaint and the submissions of the parties, the
4 Court finds as follows:

6 **BACKGROUND**

7 On August 10, 2021, the King County Executive issued an order requiring all
8 County executive branch employees to be fully vaccinated against COVID-19 by October
9 18, 2021, unless they were entitled under law to an accommodation on account of
10 disability or religious belief. Exec. Order No. ACO-8-27-EO (found at
11 <https://kingcounty.gov/en/search>).¹ At the time, plaintiff was employed as a Diesel
12 Mechanic with King County Metro Transit. On September 8, 2021, plaintiff claimed a
13 religious exemption to the vaccination requirement and requested accommodation based
14 on his “sincere religious belief.” Dkt. # 1-2 at ¶ 18. He explained that his body is “a living
15 sacrifice unto God” which he is not permitted to defile with anything harmful, that he does
16 not take part in any practice that he considers harmful to his body, and that he is “confident
17 that the proposed injections – not limited to but including COVID vaccines [–] are not
18 right for me and my body. . . .” Id.
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20 Plaintiff alleges that he was granted an exemption from the vaccination mandate,
21 but that his request for an accommodation was denied on December 27, 2021. Dkt. # 1-2 at
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26 ¹ The Court takes judicial notice of the fact that the conduct of which plaintiff complains occurred during the
COVID-19 pandemic and of the cited Executive Order. *Denis v. Ige*, 538 F. Supp. 3d 1063, 1068-69 (D. Haw. 2021)
(taking judicial notice of public health statements and emergency proclamations published on the internet).

¶ 20. “Defendants failed to hold an interactive and engaging analysis of the job prior to denying the [p]laintiff’s requested accommodation.” *Id.* Plaintiff’s employment with King County Metro was terminated on March 11, 2022. *Id.* at ¶ 22.

DISCUSSION

A. Failure to Accommodate

To allege a *prima facie* case of religious discrimination under a failure-to-accommodate theory, an employee must show that “(1) she had a bona fide religious belief, the practice of which conflicts with an employment duty; (2) she informed her employer of the belief and conflict; and (3) the employer discharged, threatened, or otherwise subjected her to an adverse employment action because of her inability to fulfill the job requirement.” *Keene v. City and County of San Francisco*, No. 24-1574, 2025 WL 341831, at *2 (9th Cir. Jan. 30, 2025) (unpublished) (internal citations, quotation marks, and alterations omitted). Similarly, a *prima facie* claim of failure to accommodate religious practices under the WLAD requires a showing that (1) plaintiff had a *bona fide* religious belief, the practice of which conflicted with employment duties; (2) she informed the employer of the beliefs and the conflict; and (3) the employer responded by subjecting the employee to threatened or actual discriminatory treatment. *Kumar v. Gate Gourmet Inc.*, 180 Wn.2d 481, 501-02 (2014).² Once a plaintiff has alleged a *prima facie* case of

² Plaintiff correctly points out that a complaint in an employment discrimination lawsuit need not contain factual allegations aimed at each and every element of the *prima facie* case. Dkt. # 12 at 14-15 (quoting *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 508 (2002)). But the allegations must give rise to a plausible inference that plaintiff is entitled to relief, *i.e.*, that the adverse employment action was motivated by and/or based on plaintiff’s religion.

1 religious discrimination, the burden shifts to the employer to show “that it initiated good
 2 faith efforts to accommodate the employee’s religious practices or that it could not
 3 reasonably accommodate the employee without undue hardship.” *Lawson v. Washington*,
 4 296 F.3d 799, 804 (9th Cir. 2002) (quoting *Heller v. EBB Auto Co.*, 8 F.3d 1433, 1438 (9th
 5 Cir. 1993)). “Undue hardship is shown when a burden is substantial in the overall context
 6 of an employer’s business.” *Keene*, 2025 WL 341831, at *2.

7 The key issue in this motion – whether plaintiff has adequately alleged a religious
 8 belief that conflicts with the COVID-19 vaccination requirement – is the same under both
 9 Title VII and the WLAD. According to the Equal Employment Opportunity Commission
 10 (“EEOC”), a *bona fide* religious belief is one that is sincerely held. U.S. Equal Emp.
 11 Opportunity Comm’n, EEOC-CVG-2021-3, Section 12: Religious Discrimination, § 12-
 12 I(A)(2) (Jan. 15, 2021). A plaintiff’s “religious belief need not be consistent or rational to
 13 be protected under Title VII, and an assertion of a sincere religious belief is generally
 14 accepted.” *Keene v. City and Cnty. of San Francisco*, No. 22-16567, 2023 WL 3451687, at
 15 * 2 (9th Cir. 2023) (unpublished) (citations omitted). Nevertheless, courts need not accept
 16 conclusory assertions that a particular belief is “religious,” *Bolden-Hardge v. Off. of the*
 17 *Cal. State Controller*, 63 F.4th 1215, 1223 (9th Cir. 2023), and “a ‘threadbare reference’ to
 18 a plaintiff’s religious beliefs is insufficient to satisfy the first element of her *prima facie*
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 26 Plaintiff could satisfy that burden by alleging direct evidence of discriminatory animus. He has not done so, however, and the question before the Court is whether the circumstances alleged give rise to the required inference.

1 case for Title VII discrimination,” *Bird v. Randol*, No. 6:23-CV-1678-MC, 2024 WL
2 964244, at *3 (D. Or. Mar. 6, 2024).

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4 In October 2021, the EEOC published guidance regarding a wide range of COVID-
5 19 issues in the workplace, including how employers should respond to reasonable
6 accommodation claims based on religious objections to vaccinations. The publication was
7 most recently updated on May 15, 2023. The EEOC made clear that:

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9 Title VII does not protect social, political, or economic views or personal
10 preferences. Thus, objections to a COVID-19 vaccination requirement that
11 are purely based on social, political, or economic views or personal
12 preferences, or any other nonreligious concerns (including about the possible
13 effects of the vaccine), do not qualify as religious beliefs, practices, or
14 observances under Title VII. However, overlap between a religious and
political view does not place it outside the scope of Title VII’s religious
protections, as long as the view is part of a comprehensive religious belief
system and is not simply an isolated teaching.

15 What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and
16 Other EEO Laws at L.2 to L.3, U.S. Equal Emp. Opportunity Comm’n (Oct. 25, 2021),
17 <https://www.eeoc.gov/wysk/what-youshould-know-about-covid-19-and-adarehabilitation-act-and-other-eeo-laws#L>. Thus, the first question before the Court on this motion to
18 dismiss is whether plaintiff has plausibly alleged that his objections to the COVID-19
19 vaccination mandate arose from his religious beliefs as opposed to his social/
20 philosophical/medical views and/or personal preferences. *See Doe v. San Diego Unified
21 Sch. Dist.*, 19 F.4th 1173, 1180 (9th Cir. 2021) (citing the EEOC’s guidance for the
22 proposition that “an employee’s request for an exemption from a COVID-19 vaccination
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1 mandate can be denied on the ground that the employee's belief is not truly religious in
2 nature").
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4 Plaintiff informed his employer, and alleges in his complaint, that he has a sincerely
5 held religious belief that prevents him from taking into his body anything that is potentially
6 harmful. He also alleges that he acts in accordance with that belief, refusing to partake of
7 anything that he believes might harm his body. The Court readily concedes there are some
8 aspects of plaintiff's exemption request that suggest the request is based on non-religious
9 views regarding the safety and medical need for vaccines in general. The request could
10 also be read as an attempt to clothe a one-off objection to this particular vaccine in the garb
11 of a religious belief. *See Ulrich v. Lancaster Gen. Health*, No. 22-cv-4945, 2023 WL
12 2939585, at *4-5 (E.D. Pa. Apr. 13, 2013). But, taking the allegations in the light most
13 favorable to plaintiff, the Court finds that plaintiff has adequately alleged a religious belief
14 system that requires him to forego vaccines in general and by which he has lived his life.
15 As the Ninth Circuit has noted, the burden of alleging "a conflict with religious beliefs is
16 fairly minimal." *Bolden-Hardge*, 63 F.4th at 1223. As long as the plaintiff avoids bare
17 labels and conclusory assertions when alleging that his beliefs are religious in nature, the
18 reasonableness of the claimed religious beliefs will not be second-guessed and the sincerity
19 with which the beliefs are held will generally be accepted at the pleading stage. *Keene*,
20 2023 WL 3451687, at * 2; *Bolden-Hardge*, 63 F.4th at 1223. While defendants cite to and
21 rely on a number of decisions from around the country that have rejected claims similar to
22 those asserted by plaintiff in this case, the precedent that binds this Court is that of the
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1 Ninth Circuit. Given the minimal burden of alleging a *prima facie* case of religious
2 discrimination in this Circuit, a number of judges in this district have concluded that the
3 type of COVID vaccine religious discrimination claims asserted here have been adequately
4 pled. *See Willingham v. Incyte Corp.*, No. 3:24-cv-05242-LK, Dkt. # 20 (W.D. Wash. Oct.
5 15, 2024); *Littlejohn v. Kaiser Found. Health Plan of Wash.*, No. 3:23-cv-06194-TMC,
6 Dkt. # 39 (W.D. Wash. Oct. 9, 2024); *Fisher v. Dep’t of Fin. Insts.*, No. 3:22-cv-05991-
7 TSZ, Dkt. # 26 (W.D. Wash. Oct. 2, 2023). Whether the allegations are true is not the issue
8 on a motion to dismiss.

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10 Plaintiff arguably alleges a system of religious beliefs which forbids vaccinations
11 and is therefore in direct conflict with his employer’s requirement that he be vaccinated
12 against COVID-19. Those beliefs were conveyed to the employer with his request for an
13 exemption and accommodation. Plaintiff also alleges that his employer failed to engage in
14 an interactive process to identify an accommodation before his employment was
15 terminated. The failure-to-accommodate claims against the employer may proceed.

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17 **B. Doe Defendants**

18 Plaintiff sued a number of Doe defendants but has not identified any acts or
19 omissions attributed to them or any legal theory under which individuals or entities other
20 than his employer could be liable for a failure to accommodate. A bare allegation that an
21 unidentified person was in some way involved in and legally responsible for wrongdoing
22 does not raise a plausible inference of liability. Once the parties submit their Joint Status
23 Report, a case management order will issue setting the deadline for joining additional
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1 parties. The dismissal of the claims against the Doe defendants is without prejudice to
2 plaintiff's ability to seek leave to sue additional defendants if there is a Rule 11 basis for
3 doing so.
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6 For all of the foregoing reasons, defendants' motion to dismiss is GRANTED in
7 part. Plaintiff's generic and factually unsupported claims against the Doe defendants are
8 DISMISSED.
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10 Dated this 10th day of February, 2025.

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13 Robert S. Lasnik
14 United States District Judge
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